

**SPECIFIC WAIVER COVER SHEET**  
**CALIFORNIA STATE BOARD OF EDUCATION**  
**JULY 2003 AGENDA**  
**Item No. WC-2**

**TITLE:** Request by one school district for a **retroactive waiver of *Education Code (EC) Section 60119*** regarding Annual Public Hearing on the availability of textbooks or instructional materials. The district had an audit finding for fiscal year 2001-2002 that they **1) failed to hold the public hearing, or 2) failed to properly notice (10 days) the public hearing and/or 3) failed to post the notice in the required three public places.**

**CDSIS:** 32-5-2003 – West Fresno School District

\_\_\_\_\_ **ACTION**  
\_\_\_\_\_ **INFORMATION**  
\_\_\_\_\_ **PUBLIC HEARING**  
  **X**   **CONSENT**

**RECOMMENDATION:**

The Department recommends: ☒ Approval

---

**Summary of Previous State Board of Education Discussion and Action:**

The State Board of Education (SBE) has heard and approved a policy developed by the department of Instructional Materials Sufficiency Waivers of Retroactive audit findings. None of these districts have had a prior year finding and waiver of this type, so this goes to consent.

---

**Summary of Key Issue(s):**

During audits for fiscal year 2001-2002, it was discovered that the above local educational agency did not hold the public hearing notice of sufficiency of instructional materials as required by *EC* Section 60119.

Since then, the local educational agency has held a fully compliant hearing and determined that it has sufficient instructional materials for each pupil in each school in the district. California Department of Education (CDE) staff verified all other requirements of the Specific Waiver request and none of the local educational agency has had a waiver of this education code before for the public hearing and ten day notice requirements in the 1997-98, 1998-99, 1999-00 or 2000-01 years. Without the waiver, the local educational agency will have to return **\$80,622** to CDE.

Therefore, since the local educational agency has met the requirements for fiscal year 2002-2003, and agrees to comply with *E.C.* 60119 and ensure that the public hearing is held within the fiscal year and that the notice of public hearing is posted for ten days, CDE recommends approval of this waiver request.

---

Authority for the waiver: *EC* Section 41344.3

Effective dates of request: 7/1/01 to 6/30/02 Audit Year

---

**Fiscal Analysis (as appropriate):** This waiver if approved will relieve the district of **\$80,622** in total penalties.

**Background Information:**

Waiver request forms and supporting documents are available for inspection in the Waiver Office.

**Failure to Hold the Public Hearing, and Complete a Local Board Resolution on the Sufficiency of Textbooks and Instructional Materials (within the 2001-2002 fiscal year)**

CDSIS – 32-5-2003 – West Fresno School District

- Audit finding for the 2001-2002 fiscal year that would require the return of \$80,622 in Schiff-Bustamante and Instructional Materials funds.
- The district failed to hold a public hearing as required by EC Section 60119 as the administrative team was not aware of the requirement.
- The district has since had a fully compliant hearing on April 24, 2003 and is now fully aware of the requirement.
- CDE staff verified all other requirements of the Specific Waiver request.